



Paper No. 11

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JAN 06 2003

In re Application of
Wang, et al.
Application No. 09/817,869
Deposited: March 26, 2001
Attorney Docket No. 30509

: OFFICE OF PETITIONS
: DECISION ON PETITION
:
:

This is a decision on the "Request for Reconsideration of Decision on Petition" filed by facsimile transmission on September 18, 2002, requesting that the Office accord the above-identified application a filing date of March 26, 2001, with both sequence listings in computer readable format and figures 2-5 as a part of the original application disclosure. The application file was recently forwarded to the Office for consideration of the petition.

Application papers in the above-identified application were filed on March 26, 2001. However, on June 12, 2002, the Initial Patent Examination Division mailed applicants a "Notice to Comply with Requirements for Patent Applications containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures." Applicants were thereby notified that the application papers had been accorded a filing date; however, a copy of the "Sequence Listing" in computer readable form had not been submitted as required by 37 CFR 1.821(e) and Figures 2-5 described in the specification appeared to have been omitted.

In response, applicants timely filed the initial petition (and petition fee). By proper postcard evidence, petitioners showed that the items described on the postcard "2 CD-Rom[s] and 24 Sheets of Drawings" were filed on March 26, 2001. However, the drawing sheets submitted on petition along with those of record only constituted 23 sheets of drawings, as figures 4 and 5 were on the same drawing sheet. Accordingly, the petition was granted to the extent that petitioner had shown that the 2 CD-Roms were among the items present in the application on the date of deposit and should be included in the original application disclosure. However, the petition was dismissed without prejudice to reconsideration upon the submission of persuasive evidence that 24 sheets of drawings were present in the application as filed on March 26, 2001, or an adequate explanation to allow for considering 23 sheets of drawings present in the application as filed on March 26, 2001. In addition, submission of another copy of Fig. 3 as originally filed was requested.

In response, petitioner timely filed the instant renewed petition. On petition, petitioner adequately explained the discrepancy in the number of sheets of drawings submitted on petition. Specifically, petitioner attested to figures 4 and 5 being shrunk and resubmitted on petition on one sheet rather than

on two sheets as originally filed. In addition, petitioner explained that the copy of Fig. 3 submitted on petition did properly appear to be a blurred line because figure 3 is the best available, but poor copy, of a photograph.

In view thereof, the petition is now also **granted** to the extent that figures 2-5 are considered a part of the original application disclosure. (Submission of a new figure 3 is no longer required.)

The application file is being forwarded to the Office of Initial Patent Examination for:

- indication in Office records that figures 2-5 were present in the application on filing on March 26, 2001.

Thereafter, the application file should be returned to the Supervisory Patent Examiner in AU 1638 for consideration of the petition filed March 26, 2001, under 37 CFR 1.84(b) to accept photographs.

Telephone inquiries related to this decision should be directed to Petitions Attorney Nancy Johnson at (703) 305-0309.

for B. Wood

Beverly Flanagan
Supervisory Petitions Examiner
Office of Petitions
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for Patent Examination Policy